

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

In re: )  
 ) Chapter 11  
GLUTH BROS. CONSTRUCTION, INC., )  
 ) Case No. 07 B 71375  
Debtor. )  
 ) Hon. Thomas M. Lynch  
 )  
 ) Hearing: March 21, 2018, at 10:30 a.m.  
 )

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on Wednesday, March 21, 2018, at 10:30 a.m., the undersigned shall appear before the Honorable Thomas C. Lynch in Courtroom 3100, or whomever may be sitting in his place and stead, at the United States Bankruptcy Court for the Northern District of Illinois, Western Division, 327 South Court Street, Rockford, Illinois 61101, and then and there present the attached *Motion for Final Decree Pursuant to Section 350(a) and Bankruptcy Rule 3022* a copy of which is attached hereto and herewith served upon you.

Dated: March 14, 2018

**CHARLES GRABER, JR., NOT IN HIS  
INDIVIDUAL CAPACITY BUT SOLELY  
AS TRUSTEE OF THE GLUTH BROS.  
CONSTRUCTION, INC. CREDITOR  
TRUST**

By: /s/ Shira R. Isenberg  
One of His Attorneys  
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Shira R. Isenberg (No. 6279718)  
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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

In re: )  
 ) Chapter 11  
GLUTH BROS. CONSTRUCTION, INC., )  
 ) Case No. 07 B 71375  
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 )  
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 )

**CERTIFICATE OF SERVICE**

I, Shira R. Isenberg, an attorney, hereby certify that on March 14, 2018, I caused a true and correct copy of the foregoing *Notice of Motion* and *Motion for Final Decree Pursuant to Section 350(a) and Bankruptcy Rule 3022* to be filed with the Court and served upon the following parties by the manners listed.

/s/ Shira R. Isenberg \_\_\_\_\_

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**U.S. Mail Service List**

Service of Notice and Motion on all parties identified on the following mailing matrix.

Label Matrix for local noticing  
0752-3  
Case 07-71375  
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Rockford  
Mon Mar 12 10:25:30 CDT 2018

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4201 Medical Center Drive  
McHenry, IL 60050-8409

Construction and General Laborers' Dist  
999 McClintock Drive, Suite 300  
Burr Ridge, IL 60527-0824

Contract Dewatering Services  
5820 W Riverside Dr  
Saranac, MI 48881-9837

EBCO Construction, LLC  
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Blackwell Sanders  
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Fox Valley Laborers Pension Fund  
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Woodstock, IL 60098-7413

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Yalden, Olsen & Willette  
1318 E. State Street  
Rockford, IL 61104-2228

Mid American Water Aurora  
1500 East Mountain  
Aurora, IL 60505-2441

Morse Electric  
500 W South Street  
Freeport, IL 61032-6836

Partners in Maintenance  
1504 S Oak Ave  
Freeport, IL 61032-6445

PetroLiance LLC  
PetroLiance LLC  
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Aurora, IL 60505-2441

Mid American Water of Wauconda  
1500 Mountain  
Aurora, IL 60505-2441

Midwest Operaing Engineers Welfare  
Fund c/o M.O.E.Fringe Benefit Funds  
PO Box 74632  
Chicago, IL 60675-4632

Midwest Operating Engineers Apprenticeship F  
6150 Joliet Road  
Countryside, IL 60525-3956

Midwest Operating Engineers Pension  
Fund c/o M.O.E.Fringe Benefit Funds  
PO Box 74632  
Chicago, IL 60675-4632

Midwest Operating Engineers Pension Fund  
6150 Joliet Road  
Countryside, IL 60525-3994

Midwest Operating Engineers Pension Fund  
c/o Attorney Elizabeth A LaRose  
6141 Joliet Road  
Countryside, IL 60525

Midwest Operating Engineers Pension Fund  
c/o Jennifer Dunitz-Geiringer  
Baum Sigman Auerbach & Neuman, Ltd.  
200 W. Adams St., Suite 2200  
Chicago, IL 60606-5231

Midwest Operating Engineers Pension Fund  
c/o Jennifer L. Dunitz-Geiringer  
Baum Sigman Auerbach & Neuman, Ltd.  
200 W. Adams Street, Suite 2200  
Chicago, IL 60606-5231

Midwest Operating Engineers Vacation Savings  
6150 Joliet Road  
Countryside, IL 60525-3956

Midwest Operating Engineers Welfare Fund  
6150 Joliet Road  
Countryside, IL 60525-3994

Midwest Operating Engineers Welfare Fund  
c/o Elizabeth A LaRose  
6141 Joliet Road  
Countryside, IL 60525

Midwest Operating Engineers Welfare Fund  
c/o Jennifer Dunitz-Geiringer  
Baum Sigman Auerbach & Neuman, Ltd.  
200 W. Adams St., Suite 2200  
Chicago, IL 60606-5231

Midwest Operating Engineers Welfare Fund  
c/o Jennifer L. Dunitz-Geiringer  
Baum Sigman Auerbach & Neuman, Ltd.  
200 W. Adams Street, Suite 2200  
Chicago, IL 60606-5231

NAFISCO, INC.  
4152 WARREN AVE  
HILLSIDE, IL 60162-1751

NATIONAL PLUMBING & HEATING  
P.O.BOX 475  
CRYSTAL LAKE, IL 60039-0475

NCILHWE  
PO BOX 9090  
PEORIA, IL 61612-9090

NEENAH FOUNDRY COMPANY  
BOX 729  
NEENAH, WI 54957-0729

NICOR GAS  
PO BOX 416  
AURORA, IL 60568-0001

NICOR GAS CLAIMS DEPT  
PO BOX 585  
AURORA, IL 60507-0585

NRA INSTITUTE  
P.O.BOX 1730  
WASHINGTON, D.C. 20077-4621

Nextel  
Sprint  
PO Box 541023  
Los Angeles, CA 90054-1023

OLD REPUBLIC SURETY GROUP  
PO BOX 1635  
MILWAUKEE, WI 53201-1635

OPTIONS 4 HEALTH  
1110 E.GRANT HIGHWAY  
MARENGO, IL 60152-3410

Official Comm of Unsecured Creditors  
% Thomas R Fawkes  
311 So Wacker Dr Ste 3000  
Chicago, IL 60606-6683

Old Republic Surety Co.  
53 W. Jackson Blvd, Suite 1215  
Chicago, IL 60604-3574

Operating Engineers Local 150 Apprenticeship  
c/o Elizabeth A LaRose  
6141 Joliet Road  
Countryside, IL 60525

Operating Engineers Local 150 Apprenticeship  
c/o Jennifer Dunitz-Geiringer  
Baum Sigman Auerbach & Neuman, Ltd.  
200 W. Adams St., Suite 2200  
Chicago, IL 60606-5231

Operating Engineers Local 150 Apprenticeship  
c/o Jennifer L. Dunitz-Geiringer  
Baum Sigman Auerbach & Neuman, Ltd.  
200 W. Adams Street, Suite 2200  
Chicago, IL 60606-5231

P.O. KNUTH'S, INC.  
110 S. JOHNSON  
WOODSTOCK SQUARE MALL  
WOODSTOCK, IL 60098-3259

PARTNERS IN MAINTENANCE  
PO BOX 874  
FREEPORT, IL 61032-0874

PATTEN TRACTOR & EQUIPMENT  
635 WEST LAKE ST  
ELMHURST, IL 60126-1409

PERFORMANCE DIESEL INC.  
P.O. BOX 490  
WOODSTOCK, IL 60098-0490

PERMIT OFFICE LAKE COUNTY DIVISION  
OF TRANSPORTATION  
600 W WINCHESTER RD  
LIBERTYVILLE, IL 60048-1329

PETROLIANCE LLC  
739 N STATE ST.  
ELGIN, IL 60123-2144

PETROLIANCE LLC  
G Alexander  
Mctavish myler et al  
105 E Galena Blvd Suite 800  
Aurora IL 60505-3357

PHIL'S EQUIPMENT & REPAIR  
P.O. BOX 173  
GILBERTS, IL 60136-0173

POMPE'S TIRE SERVICE, INC.  
P.O. BOX 1630  
GREEN BAY, WI 54305-1630

PRAIRIE MATERIAL  
7601 WEST 79TH ST  
BRIDGEVIEW, IL 60455-1409

PREMIER DIAMOND  
3998 FAU BLVD ST E 104 BLD  
BOCA RATON, FL 33431-6429

Powers Auction and Equipment Sales  
1017 Trakk Lane  
Woodstock, IL 60098-9488

QUILL CORPORATION  
P.O. BOX 94081  
PALATINE, IL 60094-4081

R & J CONSTRUCTION SUPPLY  
11902 NORTH ST  
HUNTLEY, IL 60142-9603

R H DONNELLY  
8519 INNOVATION WAY  
CHICAGO, IL 60682-0085

R.A. ADAMS ENTERPRISES, INC.  
260 W RT 120  
MCHENRY, IL 60051

RAYCRAFT-PITEL SEPTIC INC.  
PO BOX 193  
RINGWOOD, IL 60072-0193

REICHERT CHEVROLET  
2145 S. EASTWOOD DR  
WOODSTOCK, IL 60098-4604

RELIABLE OFFICE SUPPLIES  
8001 INNOVATION WAY  
CHICAGO, IL 60682-0080

REMKE'S GARAGE  
8122 S.GRANT HIGHWAY  
MARENGO, IL 60152-9443

RIEKE SEPTIC SERVICE  
PO BOX 188  
DUNDEE, IL 60118-0188

ROCKFORD INDUSTRIAL WELDING  
P.O.BOX 5404  
ROCKFORD,IL, 0 61125-0404

ROCKFORD RIGGING, INC.  
5401 MAIN SAIL  
ROSCOE, IL 61073-8669

ROLAND MACHINERY COMPANY  
816 NORTH DIRKSEN PARKWAY  
P.O. BOX 2879  
SPRINGFIELD, IL 62708-2879

RP Services  
C/o Attorney Charles T. Sewell  
215 South State Street  
Belvidere, IL 61008-3616

Resource Companies Inc/Resource Utility Supp  
% Elizabeth Bates/Huck Bouma PC  
1755 S Naperville Rd #200  
Wheaton, IL 60189-5844

Robert J. Nelson  
3750 E. Solon Road  
Solon Mills, IL 60071-8001

SAFETY ALLIANCE, LTD.  
223 HEATH CT  
BARRINGTON, IL 60010-4822

SANITARY PLUMBING & HEATING CO  
14703 HONEYSUCKLE LN  
WOODSTOCK, IL 60098-9675

SCHULHOF COMPANY  
4243 N. HONORE  
CHICAGO, IL 60613-1003

SMITH ENGINEERING CONSULTING  
4500 PRIME PARKWAY  
MCHENRY, IL 60050-2136

SPRING LAKE SAND & GRAVEL  
P.O.BOX 127  
SPRING GROVE, IL 60081-0127

(p)SPRINT NEXTEL CORRESPONDENCE  
ATTN BANKRUPTCY DEPT  
PO BOX 7949  
OVERLAND PARK KS 66207-0949

STAN'S OFFICE MACHINES  
1375 S. EASTWOOD DR  
WOODSTOCK, IL 60098-4648

SUNSOURCE  
NW 7809 PO BOX 1450  
MINNEAPOLIS, MN 55485-7809

Spring Lake Sand & Gravel  
% Donald C Stinespring & Assoc  
5414 Hill Rd / PO Box 382  
Richmond, IL 60071-0382

Stan's Office Technologies  
1375 S. Eastwood Drive  
PO Box 1249  
Woodstock, IL 60098-1249

State of Wisconsin-Dept. of Revenue  
POB 8901  
Madison WI 53708-8901

TEAMSTERS JOINT COUNCIL  
TRAINING FUND  
36990 N GREENBAY RD  
WAUKEGAN, IL 60087-3406

THELEN SAND & GRAVEL  
PO BOX 730  
SPRING GROVE, IL 60081-0730

TONYAN BROS. INC  
5101 ROUTE 31  
PO BOX 70  
RINGWOOD, IL 60072-0070

Thomas P Yardley  
Amstein & Lehr LLP  
120 S Riverside Plaza Ste 1200  
Chicago, IL 60606-3910

Tonyan Bros Inc  
%Donald C Stinespring & Assoc  
5414 Hill Road  
PO Box 382  
Richmond, Il 60071-0382

Tonyan Bros. Inc.  
c/o Donald C. Stinespring & Assts.  
5414 Hill Road/ Po Box 382  
Richmond, IL 60071-0382

UNICARE HEALTH INSURANCE  
PO BOX 0797  
CAROL STREAM, IL 60132-0797

UNITED PARCEL SERVICE  
LOCKBOX 577  
CAROL STREAM, IL 60132-0577

UNITED STRUCTURAL SYSTEMS  
CHICAGO INC  
21988 PEPPER RD  
BARRINGTON, IL 60010-2551

UNIVERSAL PIPE & SUPPLY,  
P.O. BOX 2404  
JOLIET, IL 60434-2404

United Fire & Casualty Co.  
Cedar Rapids, IA

VALLEY AGGREGATES, LTD.  
1100 BORDEN LANE  
WOODSTOCK, IL 60098-2320

VALLEY BLOCK & SUPPLY CO./Northfield Block C  
13N085 COOMBS RD  
Elgin, IL 60124-7913

VERMEER MIDWEST/VERMEER, IL  
2801 BEVERLY DR  
AURORA, IL 60502-9763

VILLAGE OF CARPENTERSVILLE  
1200 L.W. BESINGER DR  
CARPENTERSVILLE, IL 60110-2000

VILLAGE OF OSWEGO  
113 MAIN STREET  
OSWEGO, IL 60543-8593

VISU SEWER CLEAN AND SEAL  
W230 N4855 BETKER DR  
PEWAUKEE WI 53072-1430

VULCAN MATERIALS COMPANY  
75 REMITTANCE DR, STE 3  
CHICAGO, IL 60675-3155

WATER PRODUCTS COMPANY  
4379 PAYSPIRE CIRCLE  
CHICAGO, IL 60674-0043

WELCH BROS. INC.  
1050 ST. CHARLES ST.  
ELGIN, IL 60120-8441

WEST BEND MUTUAL INSURANCE  
1900 South 18th Ave.  
West Bend, WI 53095-9791

WEST SIDE EXCHANGE  
DEPT 4570  
PO BOX 87618  
CHICAGO, IL 60680-0618

WILLIAM RUTH CO., INC.  
13417 ERNESTI RD  
HUNTLEY, IL 60142-9784

WISCONSIN DEPT.OR REVENUE  
BOX 93931  
MILWAUKEE, WI 53293-0931

WISCONSIN LABORERS FRINGE  
BENEFIT FUNDS  
BOX 684001  
MILWAUKEE, WI 53268-4001

WOODSTOCK AUTO BODY INC.  
1295 S EASTWOOD DR  
WOODSTOCK, IL 60098-4672

WOODSTOCK FORD & MERCURY  
1460 S. EASTWOOD DR  
WOODSTOCK, IL 60098-4651

WOODSTOCK LUMBER CO., INC.  
1101 LAKE AVENUE  
WOODSTOCK, IL 60098-7413

Water Products Company of Aurora Inc  
3255 East New York  
Aurora, Illinois 60504-6604

Water Products Company of Aurora Inc  
% James P Chivilo  
131 So Dearborn St 30th Flr  
Chicago, IL 60603-5517

Welch Bros Inc  
% Gary M Vanek  
Schnell Bazos Freeman Kramer et al  
1250 Larkin Ave Ste 100  
Elgin, IL 60123-6078

Wendy E Morris  
Freeborn & Peters LLP  
311 So. Wacker Dr Ste 3000  
Chicago, IL 60606-6679

West Bend Mutual Ins. Co.  
8401 Greenway Blvd., Suite 1100  
Middleton, WI 53562-4671

West Bend Mutual Insurance Company  
c/o Attorney John Collen  
233 S Wacker Dr., Suite 2200  
Chicago, IL 60606-6399

William R. Nellessen  
901 Indian Point Rd.  
Twin Lakes, WI 53181

WilliamsMcCarthy LLP  
120 W State St #400  
Rockford, IL 61101-1159

ZIBELL WATER SERVICE PRODUCTS  
2001 PRATT BLVD.  
ELK GROVE VLG, IL 60007-5987

John Cruciani  
c/o Blackwell Sanders LLP  
4801 Main Street  
Suite 1000  
Kansas City, MO 64112-2551

Patrick S Layng  
780 Regent Street, Suite 304  
Madison, WI 53715-2635

Patrick S Layng  
Office of the U.S. Trustee, Region 11  
780 Regent Street  
Suite 304  
Madison, WI 53715-2635

Robert Nelson  
c/o Franks, Gerkin & McKenna, P.C.  
P.O. Box 5  
Marengo, IL 60152-0005

c/o Receivable Mgmt Avaya Inc  
P.O. Box 5126  
Timonium, MD 21094-5126

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Department of the Treasury  
Internal Revenue Service  
Centralized Insolvency  
PO Box 21126  
Philadelphia, PA 19114

(d) INTERNAL REVENUE SERVICE  
PO BOX 105421  
ATLANTA, GA 30348-5421

SPRINT  
PO BOX 4181  
CAROL STREAM, IL 60197-4181

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) AJ Unlimited, LLC dba Carquest of Woodstoc

(u) Airgas North Central, Inc

(u) Ameriglass and Mirror

(u) Arnstein & Lehr LLP

(u) Botts Welding & Truck

(u) Bryn Mawr of Crystal Lake LLC

(u)Central Boring, Inc.

(u)Charles Dixon and Charles Graeber, Jr., not

(u)Charles Dixon and Charles Graeber, Jr., no

Document Page 14 of 20

(u)Cheers Holding, LLC

(u)Construction Industry Research and Service

(u)E J Equipment, Inc.

(u)Fleming &amp; Co PC

(u)Fox Valley Laborers Benefit Funds

(u)Freeborn &amp; Peters LLP

(u)Graber Concrete Pipe Co

(u)Graber Engineering &amp; Sales

(u)Harding Real Estate

(u)Kasper Trucking Inc

(u)Kimball Homes

(u)Laborers District Council

(u)Laborers Health and Welfare Fund of the He

(u)Local 150, I.U.O.E. Vacation Savings Plan

(u)McHenry Analytical

(u)Mid American Water

(u)Mid American Water of Wauconda, Inc.

(u)Midwest Operating Engineers Pension Fund

(u)Midwest Operating Engineers Welfare Fund

(u)Nafisco Inc

(u)Northern Illinois Gas Company

(u)Official Committee of Unsecured Creditors

(u)Operating Engineers Local 150 Apprenticesh

(u)Querrey &amp; Harrow Ltd

(u)Roland Machinery Company

(u)Welch Bros., Inc.

(u)West Bend Mutual Insurance Company

(u)Ziebell Water Service Products, Inc.

(d)American Community Bank  
1290 Lake Ave.  
PO Box 1720  
Woodstock, IL 60098-1720

(d)Brian J Jackiw  
Freeborn & Peters LLP  
311 So Wacker Drive Ste 3000  
Chicago, IL 60606-6679

(d)Bryn Mawr of Crystal Lake LLC  
% James E Stevens  
6833 Stalter Drive  
Rockford, IL 61108-2579

(u)Contracts and work in progress

(d)Foxcroft Meadows, Inc.  
5402 Edgewood Road  
Crystal Lake, IL 60012-1318

(d)ITT FLYGT  
8402 W. 183RD ST  
TINLEY PARK, IL 60487-6219

(d)John Deere Construction & Forestry  
PO Box 6600  
Johnston, IA 50131-6600

(d)John Deere Credit  
PO Box 6600  
Johnston, IA 50131-6600

(d)LANDSCAPING & CONSTRUCTION  
SOLUTIONS  
2233 PALMER DR, SUITE B  
SCHAUMBURG, IL 60173-3806

(d)LEE JENSEN SALES, INC.  
101 W TERRA COTTA AVE  
CRYSTAL LAKE, IL 60014-3507

(u)Laborers' Pension and Welfare Fund

(du)Local 150 I.U.O.E. Vacation Savings Plan

(d)MID AMERICAN WATER AURORA  
1500 EAST MOUNTAIN  
AURORA, IL 60505-2441

(d)MOE Construction Industry Research and Ser  
c/o Jennifer L. Dunitz-Geiringer  
Baum Sigman Auerbach & Neuman, Ltd.  
200 W. Adams Street, Suite 2200  
Chicago, IL 60606-5231

(d)MORSE ELECTRIC INC.  
500 W SOUTH ST  
FREEPORT, IL 61032-6836

(u)OPERATING ENGINEERS LOCAL  
APPRENTICESHIP FUND  
0, 0

(u)Powers Auction and Equipment Sales

(d)RP SERVICES  
P.O.BOX 1165  
BELVIDERE, IL 61008-1165

(d)eCAST Settlement Corporation  
c/o Bass & Associates, P.C.  
3936 E Ft. Lowell, Suite 200  
Tucson, AZ 85712-1083

(u)Douglas L Grossen

(u)Frank Gluth

(u)Gordon Stade

(u)William Ruth

End of Label Matrix  
Mailable recipients 283  
Bypassed recipients 60  
Total 343

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

In re:	)	
	)	Chapter 11
GLUTH BROS. CONSTRUCTION, INC.,	)	
	)	Case No. 07 B 71375
Debtor.	)	
	)	Hon. Thomas M. Lynch
	)	
	)	Hearing: March 21, 2018, at 10:30 a.m.
	)	

**MOTION FOR FINAL DECREE PURSUANT TO  
SECTION 350(a) AND BANKRUPTCY RULE 3022**

Charles Graber, Jr., not in his individual capacity but solely as trustee (the “*Creditor Trustee*”) of the Gluth Bros. Construction, Inc. Creditor Trust (the “*Creditor Trust*”), by and through his undersigned attorneys, hereby moves (the “*Motion*”), pursuant to 11 U.S.C. § 350(a) and Rule 3022 of the Federal Rules of Bankruptcy Procedures (the “*Bankruptcy Rules*”) for the entry of a final decree (“*Final Decree*”) closing the chapter 11 case of Gluth Bros. Construction, Inc. (the “*Debtor*”). In support of this Motion, the Creditor Trustee states as follows:

1. On June 5, 2007 (the “*Petition Date*”), the Debtor filed a voluntary petition for relief under Chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”).
2. On January 27, 2009, the Official Committee of Unsecured Creditors of Gluth Bros. Construction, Inc. filed the *Plan of Liquidation dated January 27, 2009* (Docket No. 580) (the “*Plan*”) and the *Disclosure Statement with Respect to Plan of Liquidation of Official Committee of Unsecured Creditors of Gluth Bros. Construction, Inc. Pursuant to 11 U.S.C. § 1125* (Docket No. 581) (the “*Disclosure Statement*”).
3. On March 4, 2009, the Court entered an order (Docket No. 643) (the “*Confirmation Order*”) approving the adequacy of the disclosures in the Disclosure Statement



and confirming the Plan and approving the *Gluth Bros. Construction, Inc. Creditor Trust Agreement* (the “*Creditor Trust Agreement*”) entered into among the Debtor, the Official Committee of Unsecured Creditors of Gluth Bros. Construction, Inc. and the Creditor Trustees (which, at the time, consisted of Charles Dixon and current sole Creditor Trustee, Charles Graber, Jr.).

4. Together with the Plan, the Creditor Trust Agreement established the Creditor Trust for the primary purposes of collecting, litigating, settling, and administering the remaining assets of the Debtor’s estate.

5. The Creditor Trustee’s largest lawsuit – that against former owner of the Debtor, Frank Gluth (Adv. Case No. 09-96131) – did not have a successful outcome. Even though the Creditor Trustee obtained a default judgment against Frank Gluth in the amount of \$2,087,090.10, Frank Gluth did not pay any of the judgment, and the Trust only was able to recover a few assets in partial payment of that judgment. Prior to entry of the default judgment, Frank Gluth disappeared as his debts mounted, and he may have since passed away.

6. Since then, the Creditor Trustee has sought to liquidate remaining assets and pursue avoidance actions. However, the remaining assets, comprising of parcels of land that Frank Gluth owned, only garnered *de minimus* recoveries due to the state of the market, the fact that there were various environmental and other problems with the real estate to be sold, and that the real estate parcels had previously unknown substantial taxes owed on them, hindering any sale. The Creditor Trustee had waited for conditions to improve to try selling the real estate again, to no avail.

**RELIEF REQUESTED**

7. By this Motion, the Creditor Trustee seeks entry of an order for Final Decree closing the Debtor's chapter 11 case.

8. Section 350(a) provides that "[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case." 11 U.S.C. § 350(a).

9. Bankruptcy Rule 3022, which implements section 350 of the Bankruptcy Code, further provides that "[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case." Fed. R. Bankr. P. 3022.

10. The term "fully administered" is not defined in the Bankruptcy Code or the Bankruptcy Rules. The Advisory Committee Note to Bankruptcy Rule 3022, however, sets forth the following non-exclusive factors to be considered in determining whether a case has been fully administered:

- (a) Whether the order confirming the plan has become final;
- (b) Whether deposits required by the plan have been distributed;
- (c) Whether the property proposed by the plan to be transferred has been transferred;
- (d) Whether the debtor or its successor has assumed the business or the management of the property dealt with by the plan;
- (e) Whether payments under the plan have commenced; and
- (f) Whether all motions, contested matters, and adversary proceedings have been finally resolved.

Courts have affirmed its adoption of the view that "these factors are but a guide in determining whether a case has been fully administered, and not all factors need to be present before the case is closed. *In re Mold Makers, Inc.*, 124 B.R. 766, 768-69 (Bankr. N.D. Ill. 1990); *see also In re*

*Kliegel Bros. Universal Elec. Stage Lighting Co., Inc.*, 238 B.R. 531, 542 (Bankr. E.D.N.Y. 1999) (recognizing that bankruptcy courts weigh factors contained in the Advisory Committee Note when deciding whether to close a case); *In re Jay Bee Enters., Inc.*, 207 B.R. 536, 538 (Bankr. E.D. Ky 1997) (same); *Walnut Assocs. v. Saidel*, 164 B.R. 487, 493 (E.D. Pa. 1994) (“[A]ll of the factors in the Committee Note need not be present before the Court will enter a final decree).

11. The factors set forth in the Advisory Committee Note weigh in favor of an entry of Final Decree. First, the Court has entered the Confirmation Order confirming the Plan which is final and non-appealable.

12. Second, the Creditor Trustee has made all Plan payments that he is able to make. Specifically, in accordance with Local Rule 3022-1, the status of payments to each class under the Plan is as follows:

<u>Class</u>	<u>Status</u>
Class 1 (Allowed Administrative Claims)	Paid in full or disallowed by Court
Class 2 (Allowed Priority Tax Claims)	Creditor Trustee not aware of any amounts still owing
Class 3 (Allowed Priority Claims)	Will receive no distribution
Class 4 (Allowed Secured Claims)	All claims were disallowed by Court
Class 5 (Allowed General Unsecured Claims)	Will receive no distribution
Class 6 (Equity Securities)	Will receive no distribution

13. Third, the Plan was a liquidating plan and the Plan did not contemplate that the Debtor’s business would be continuing.

14. Finally, all motions, contested matters, and adversary proceedings have been resolved.

15. Accordingly, the Creditor Trustee submits that Court should enter a Final Decree closing this chapter 11 case because the Debtor’s estate has been administered and the Plan has been substantially consummated.

**NOTICE**

16. In accordance with Local Rule 3022-1, the Creditor Trustee shall give notice of this Motion to the United States Trustee and all creditors.

**WHEREFORE**, the Creditor Trustee requests the entry of an order: entering a Final Decree and closing this chapter 11 case, and granting such other and further relief as is just and to which the Trustee may be entitled under the circumstances.

Dated: March 14, 2018

**CHARLES GRABER, JR., NOT IN HIS  
INDIVIDUAL CAPACITY BUT  
SOLELY AS TRUSTEE OF THE  
GLUTH BROS. CONSTRUCTION, INC.  
CREDITOR TRUST**

By: /s/ Shira R. Isenberg  
One of Their Attorneys  
John T. Shapiro (No. 6207791)  
Shira R. Isenberg (No. 6279718)  
FREEBORN & PETERS LLP  
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